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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/768,614

01/30/2004

Robert G. DeMoor

TI-35548

6753

23494 7590 03/25/2010  
TEXAS INSTRUMENTS INCORPORATED  
P O BOX 655474, M/S 3999  
DALLAS, TX 75265

EXAMINER

LE, TUAN H

ART UNIT

PAPER NUMBER

2622

NOTIFICATION DATE

DELIVERY MODE

03/25/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/768,614	<b>Applicant(s)</b> DEMOOR, ROBERT G.	
	<b>Examiner</b> TUAN H. LE	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 2/26/2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 8-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/26/2010 has been entered.

### ***Response to Arguments***

Applicant's arguments filed 2/26/2010 have been fully considered but they are not persuasive.

Regarding **claim 8**, applicant submits that ***"In the Office Action, the Office insinuated that Lavelle discloses all the elements recited in claim 8. In support of the rejection, the Office indicated that Lavelle discloses "a timer (inherent part), the timer providing a selected time delay between a first simulated optical image acquisition (first state of release button 70) and an actual optical image acquisition (second state of release button 7), (Lavelle, paragraph [0027] and [0028])." Office Action, at page 3"***, Remarks, page 2. However, such a submission does not exist in examiner's Office Action dated 12/30/2009.

Also in **claim 8**, regarding ***"as a result of said instruction and after said simulation***," Lavelle (US 6,362,851) discloses "The user may select a shutter delay time of 10 or 20 or no delay. **When shutter button 250 is pressed**, the

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camera will wait until the preselected delay time has elapsed **before taking a picture**. The “count down” **LED 390 will blink and the beeper will sound once per second for the final 5 seconds** to indicate when the camera is about to take a picture,” (Lavelle, column 8 lines 27-33). Accordingly, as a result of pressing the shutter button and after LED blinking and beeper sounding, an image is taken. Therefore, given its broadest reasonable interpretation, Lavelle does teach the claimed limitation and the rejection stands.

Regarding **claim 1**, applicant submits that Lavelle (US 6,362,851) and Musumi (US 6,483,993) do not disclose "*a controllable shutter for exposing the photosensitive region and for simulating an actual image acquisition without actually acquiring the image or exposing the photosensitive region*," Remarks, page 3. In the contrary, Lavelle (US 6,362,851) discloses “**The user may select a shutter delay time of 10 or 20 or no delay**. When shutter button 250 is pressed, the camera will wait until the preselected delay time has elapsed **before taking a picture**. The “count down” **LED 390 will blink and the beeper will sound once per second for the final 5 seconds** to indicate when the camera is about to take a picture,” (Lavelle, column 8 lines 27-33). Thus, the shutter is controllable in accordance with selected delay time and the LED blinking and beeper sound are simulations for an actual image acquisition before the exposure of the photosensitive region. Thus, Lavelle discloses the claimed limitations.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-3, 13-16** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, "two or more acquisition simulated optical image acquisition" can be interpreted as either "two or more acquisitions simulated optical image acquisition" or "two or more acquisition simulated optical image acquisitions". Furthermore, "two or more acquisitions simulated optical image acquisition" is considered in this Office Action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lavelle (US 6,362,851 to Lavelle et al).**

Regarding **claim 8**, Lavelle discloses a method of acquiring an image of a human subject with a digital camera having predetermined features, the method comprising:

instructing a digital camera to acquire an image of the subject (Lavell, fig. 8C, column 8 lines 26-41, wherein shutter button 250 is pressed);

simulating for the subject the acquisition of an image of the subject by digital camera (Fig. 1) wherein the simulation only simulates the acquisition of an image without actually acquiring the image (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay before an image is taken; also simulation of image acquisition happens during shutter delay).

after a preselected period of time, as a result of said instruction and after said simulation, acquiring an image of the subject by the digital camera (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay after that an image is taken).

Regarding **claim 9**, Lavelle discloses aforementioned limitations of the parent claim. Additionally, Lavelle discloses

simulating the acquisition of an image of the subject includes providing the sights and sounds associated with the acquisition of an image of the subject by the digital camera (Lavelle, Fig. 9b, column 8 lines 26-41, wherein the led 390 blinks and the beeper sounds once per second for the final five seconds.)

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavelle (US 6,362,851 to Lavelle et al) in view of Misumi (US 6,483,993 to Misumi et al).**

Regarding **claim 1**, Lavelle discloses

a digital camera (Fig. 1) comprising:

a photosensitive region (CCD) for recording an optical image of a human subject (Lavelle, Fig. 1, Abstract);

a controllable shutter (inherent part) for exposing the photosensitive region (Lavelle, column 26, lines 31-35, wherein the shutter speed varies between 1/30 and 1/175 second) and for simulating an actual image acquisition without actually acquiring the image or exposing the photosensitive (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay before an image is taken; also simulation of an actual image acquisition happens during shutter delay);

a timer (timer 290), the timer providing a selected time delay between acquisition simulated optical image acquisition and an actual optical image acquisition, wherein the simulation simulates the actual image acquisition without actually acquiring the image (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a

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user can select no delay, ten seconds, or twenty seconds for shutter delay before an image is taken; also simulation of the actual image acquisition happens during shutter delay).

However, Lavelle does not disclose  
two or more acquisitions.

On the other hand, Misumi discloses  
two or more acquisitions (LED lighting generated of camera position display portion 14 and message generated by guidance display portion 7), (Misumi, fig. 1, fig. 2, column 6 lines 15-23, 40-43, wherein led lightning and “wait for photographing” prompts to-be-photographed subject).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the acquisitions by Misumin into the camera by Lavelle so as to guide to-be-photographed subject during image capture process because such incorporation results in an optimum condition for capturing a face image.

Regarding **claim 2**, Lavelle and Misumi disclose aforementioned limitations of the parent claim. Additionally, Lavelle discloses  
simulated image acquisition is accompanied by sounds of typical shutter operation (Lavelle, it is inherent that sounds are generated during shutter operation).

Regarding **claim 3**, Lavelle and Misumi disclose aforementioned limitations of the parent claim. Additionally, Lavelle discloses



a flash mechanism, the flash mechanism receiving low-power activation during the simulated image acquisition (Lavelle, column 8 lines 18-25, wherein the flash is in automatic flash).

Regarding **claim 13**, Lavelle and Misumi disclose all of the limitations of the parent claim. Additionally, Lavelle discloses

a first mode of operation (no shutter delay), the digital camera in the first mode acquiring an image of the subject in response to user input in the first mode of operation (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select no delay for shutter delay before an image is taken); and

a second mode of operation (10 or 20 seconds for shutter delay), the digital camera simulating acquiring an image of the subject in response to user input in the second mode of operation, the digital camera acquiring an image at a pre-selected time after simulating acquiring image (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay before an image is taken; also simulation of optical image acquisition happens during shutter delay).

Regarding **claim 14**, Lavelle and Misumi disclose all of the limitations of the parent claim. Additionally, Lavelle discloses

a first mode of operation (no shutter delay), the digital camera acquiring an image of the subject in response to user input in the first mode of operation (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select no delay for shutter delay before an image is taken); and

a second mode of operation (10 or 20 seconds for shutter delay), the digital camera selecting for acquisition an image of the subject having predetermined features (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay before an image with predetermined features is taken).

**Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavelle (US 6,362,851 to Lavelle et al) in view of Misumi (US 6,483,993 to Misumi et al) and further in view of Chatani et al (U.S. Pub. 2004/0075743 A1).**

Regarding **claim 15**, Lavelle and Misumi disclose all of the limitations of the parent claim. However, Lavelle and Misumi do not disclose

the predetermined features are determined by a pattern recognition program

On the other hand, Wada discloses

the predetermined features are determined by a pattern recognition program (see Chatanie et al, paragraphs [0011] and [0012], wherein image selection parameters are entered).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine image capture with specified parameter as described by Chatanie et al with the digital camera as described by Lavelle and Misumi in order to selectively store desired images because such combination saves time to search through a whole image database for a certain image.

Regarding **claim 16**, Lavelle and Misumi disclose all of the limitations of the parent claim. However, Lavelle and Misumi does not disclose

the predetermined features are facial expression.

On the other hand, Chatanie discloses the predetermined features are facial expression (see Chatani et al, paragraph [0053], wherein semantic parameters include closed eyes, crossed eye)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine image capture with semantic parameters as described by Chatanie et al with the digital camera as described by Lavelle in order to selectively store desired images because such combination saves time to search through a whole image database for a certain image.

**Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavelle (US 6,362,851 to Lavelle et al) in view of Chatani et al (U.S. Pub. 2004/0075743 A1).**

Regarding **claim 10**, Lavelle discloses aforementioned limitations of the parent claims.

However, Lavelle does not disclose providing a program associated with a processing unit for identifying the predetermined features;

acquiring a series of images and applying the images to the processing unit; and

analyzing the images using the program.

On the other hand, Chatani et al discloses  
providing a program associated with a processing unit (306) for identifying the predetermined features (see Chatani et al, Fig. 3, paragraph [0012], wherein a computer program obtains image selection parameters);

acquiring a series of images and applying the images to the processing unit (see Chatani et al, paragraph [0011], wherein the imaging device is capable of capturing image data for a plurality of digital images); and

analyzing the images using the program, (see Chatani et al, Fig. 8 step 808, wherein subset of images with specified parameters is generated).

Therefore, it would have been obvious to an artisan to combine image analysis by using the program as disclosed by Chatani et al with the method as disclosed by Lavelle in order to analyze a series of images because such combination provides automatic selection of digital photographs based on user provided criteria and allows user to preview images under various conditions, (Chatani et al, paragraph [0009]).

As for **claim 11**, as previously mentioned in the discussion of claim 10, Lavelle and Chatani et al disclose all of the limitations of the parent claim. In addition, Chatani et al discloses that the first image in which the predetermined feature is identified is stored, (see Chatani et al, Fig. 4, wherein image in the buffer 410 is stored in memory 412).

As for **claim 12**, as previously mentioned in the discussion of claim 10, Lavelle and Chatanie et al discloses all of the limitations of the parent claim. In addition, Chatani et al discloses that the acquiring of a series images is provided

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in response to signals from a timing unit (see Chatanie et al, paragraphs [0007] and [0011], wherein multiple images are capture in high rate photography).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN H. LE whose telephone number is (571)270-1130. The examiner can normally be reached on M-Th 7:30-5:00 F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Tuan H Le/

Examiner, Art Unit 2622

/Jason Chan/

Supervisory Patent Examiner, Art Unit 2622